IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 1539 of 1995

For Approval and Signature:

HON'BLE* MISS JUSTICE *R.M.DOSHIT

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to civil judge ?

==========

KISHORKUMAR M OHANLAL & 4 - Applicant(s)

Versus

M/S. SHAH NAGARDAS KHETSHI & CO. & 2 - Opponent(s)

==========

Appearance :

MR DM PATEL for Petitioner No(s).: 1,2,3 - 3,4,5.

MR BD KARIA for Respondent No(s).: 1, 2,3.

==========

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date : 09/08/2005

ORAL JUDGMENT

*F*eeling aggrieved by the judgment and order dated 23rd March, 1995 passed by the learned Joint District Judge, Kheda in Civil Appeal No. 138 of 1987, the appellants-plaintiffs in Regular Civil Suit No. 218 of 1982, have preferred the present Revision Application under Section 29 (2) of the Bombay Rents, Hotel & Lodging

House Rates Control Act, 1947 [hereinafter referred to as, “**the Rent Act**”].

The respondent no.1, the defendant no.1-firm is the tenant in the suit shop bearing Municipal House No. 908, Tikka No. 2, City Survey No. 578, situated at Nadiad since the year 1955. The standard rent of the suit shop had been fixed at Rs. 1,400/= per year in Regular Civil Suit No. 264 of 1956. The petitioners-plaintiffs instituted Regular Civil Suit No. 218 of 1982 in the Court of learned Civil Judge [JD], Nadiad for recovery of possession of the suit shop on the grounds that the defendant no.1 was a tenant in default and was not ready and willing to pay the rent; and that the defendant no.1 had unlawfully sublet or transferred the suit shop to the defendants nos. 2 & 3. The suit was contested by the defendants nos. 2 & 3 vide written statement [*Exh.18*]. The defendant no.1 adopted the said written statement vide purshis [*Exh.19*]. It was denied that the defendant no. 1 was tenant in arrears or that the suit shop was unlawfully sublet or transferred to the defendants nos. 2 & 3, as alleged. The learned Civil Judge, by the judgment and order dated 10th August, 1987, held that the defendant no. 1 was not a tenant in default and that it was ready

and willing to pay the rent. It was further held that upon dissolution of the defendant no. 1-firm vide Dissolution Deed [*Exh.98*], five of the partners of the *erstwhile* firm continued the firm and the firm continued to be the tenant. Under the said dissolution deed, the defendant no. 2 who had walked out of the said partnership was allowed to continue his business in the suit shop on condition that the tenancy right shall be retained by the defendant no.1-firm. The learned Civil Judge, therefore, held that the defendants no. 2 & 3 were not the sub-tenants in the suit shop, as alleged. Accordingly, a decree was passed in favour of the defendants. Feeling aggrieved, the plaintiffs preferred Civil Appeal No. 138 of 1987 in the Court of the learned District Judge, Kheda. The learned Joint District Judge confirmed the finding recorded by the trial Court and dismissed the Appeal. Therefore, the present Revision Application.

In view of the above referred concurrent findings recorded by both the Courts below, no interference is warranted. Revision Application is dismissed. *Rule* is *discharged*.

{Miss R.M Doshit, J.}